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# **Trademark Public Advisory Committee Meeting February 11, 2002**



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# Welcome

Miles J. Alexander



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# Strategic Direction

Anne H. Chasser



# Key Issues

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- Filings
- Staffing
- Electronic filing
- Madrid Protocol
- Electronic communications



# Trademark Strategy

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- Implement e-Government to create an accessible and efficient trademark system.
- Consistent with Administration direction and USPTO Business Plan.



# Trademark Business Goals

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- **High Quality Products and Services**  
Quality work, consistent legal examination;  
convenient access, correct and timely service.
- **Reduce Processing Time**  
Capture data electronically; streamline  
examination.
- **Improve productivity.**



## 2002 - 2004 Commitments

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- E-Government – 50% electronic filing in 2002.
- E-Government – 80% electronic filing in 2003.
- E-Government – 80% electronic communication in 2004.
- Electronic examination – begin examination from electronic file in 2003.
- Electronic file management – (TIS) beginning of FY 2004.



## 2003 - 2004 Commitment

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- TM E-Government – \$18 million in 2003 to deliver a totally electronic process by 2004.
- TM E-Government – use electronic processing to improve Trademark productivity, quality and timeliness.





# President's Management Agenda

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- Citizen centered;
- Results-oriented;
- Market based – promote innovation through competition.



## Government-wide Initiatives

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- Strategic Management of Human Capital
- Competitive Sourcing
- Improved Financial Management
- E-Government
- Budget/Performance Integration



# Human Capital

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- Strategic management of Human Capital – focus on delivering good government to the citizens.
- Workforce Analysis - determine skills and workforce requirements.



## Competitive Sourcing

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- Competitive Sourcing – focus on competition with the commercial (market) sector to deliver efficient and effective service.
- Target 5 – 10% of commercially performed functions for competition each year.



# Financial Management

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- Improved Financial Management – improve performance and accountability.



## E-Government

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- Expand electronic government. 2003 Budget provides \$18 million for TM E-Government.
- Improve the value of the federal government to the citizen.
- Help citizens find information and obtain services according to their needs.
- Automate processes to reduce costs internally.



## Budget/Performance Integration

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- Budget/Performance Integration – link performance and results to budgeting decisions and requested funding.
- 2003 Budget provides \$18 million to deliver complete electronic processing and examination; deliver services and conduct processes electronically.



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# **USPTO Financial Report**

Clarence C. Crawford





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# Fiscal Year 2003 Budget



# FY 2003-2007 Business Plan

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- ◆ Developed 5 year Business Plan for FY 2003 budget request
- ◆ Responds to OMB and Hill direction to define requirements to improve pendency and quality, without regard to fee collections
- ◆ Puts focus back on critical mission requirements – examination and dissemination functions
- ◆ Establishes two simple goals:
  - Enhance the quality of USPTO products and services
  - Minimize application processing time
- ◆ Identifies initiatives and associated funding requirements over next 5 years in support of goals achievement



# FY 2003 Budget Highlights

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- ◆ FY 2003 budget is 1.365M
  - ◆ 21.2 percent increase over FY 2002 enacted budget
  - ◆ Includes carryover of \$100M from 2002
- ◆ FY 2003 budget supports:
  - ◆ Patent hiring of 950 examiners toward pendency goals
  - ◆ Trademark transformation to a fully electronic operation by FY 2004
  - ◆ President's Management Agenda, including e- Government, outsourcing, and workforce restructuring



# FY 2003 Budget Request

(\$ in thousands)

	Permanent Positions	FTE	Amount	Comments
<b>2002 Enacted Budget</b>	<b>6,984</b>	<b>6,749</b>	<b>\$1,126,001</b>	
<b>Adjustments-to-Base (ATBs)</b>				
▪ FTP and FTE Adjustment	0	193	--	Realign FTE to USPTO needs
▪ Inflationary cost increases	--	--	11,868	Inflationary increases for contracts and other non-discretionary items
▪ Pay Adjustments	--	--	75,107	FY 2003 pay raise, cost of FY 2002 locality pay adjustments, and full-year cost in FY 2003 of staff hired in FY 2002
▪ Retirement Costs (Employee Pension and Annuitant Health Benefits)			30,551	
<b>Total ATBs</b>		<b>193</b>	<b>117,526</b>	
<b>Program Increases:</b>				
<u>Workload Increases</u>			54,600	Systems maintenance & operations, patent workloads
<u>Patent Pendency/Quality Initiatives</u>				
▪ Search Tool Enhancement			5,000	
▪ Increase Examiner Staff			34,188	
▪ Outsource PCT Chapter 1			9,500	
<u>Trademark Business</u>				
▪ E-Government			18,093	
<b>Total Program Increases</b>	<b>--</b>	<b>--</b>	<b>\$66,781</b>	
<b>FY 2003 Request</b>	<b>6,984</b>	<b>6,942</b>	<b>\$1,364,908</b>	



# Business Plan: Patent Goals

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## Patent Targets

### Quality:

- ◆ Improve quality of patents by 55% through reducing the error rate from 6.6% to 3% by FY 2006
- ◆ Increase overall customer satisfaction from 64% to 80% by FY 2006

### Timeliness:

- ◆ Reduce average first action pendency to 12 months by FY 2006
- ◆ Reduce average total pendency to 26 months by FY 2006

## Patent Initiatives

### Quality:

- ◆ Process Reengineering Enhancement
- ◆ Search Tool Enhancements
- ◆ E-Government Implementation



# Business Plan: Patent Goals (Continued)

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## Patent Initiatives (continued)

### Timeliness:

- ◆ Increase Examiner Staff
- ◆ Customer Choice in Processing Time
- ◆ Recruitment and Retention
- ◆ Productivity Incentives and Accelerated Career Track
- ◆ Outsource Non-Examination Functions
- ◆ Workload Rebalancing



# Business Plan: Trademark Goals

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## **Trademark Targets**

### Quality:

- ◆ Reduce the error rate from 6% to 3% by FY 2004
- ◆ Increase overall customer satisfaction from 70% to 80% by FY 2005

### Timeliness:

- ◆ Reduce average first action pendency to 2 months by FY 2004
- ◆ Reduce average total pendency to 12 months by FY 2006

## **Trademark Initiatives**

### Quality:

- ◆ Quality Review
- ◆ Customer Relationship Management System
- ◆ Peer-to-Peer



# Business Plan: Trademark Goals

(Continued)

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## **Trademark Initiatives**

### Trademark Timeliness:

- ◆ E-Government Implementation
- ◆ Workforce Flexibility





# Staffing and Workload

	2000	2001	2002	2003	2004	2005	2006	2007
<b>EOY Examiner Staff</b>								
Patents	2,905	3,061	3,435	3,991	4,495	4,950	5,362	5,735
Trademarks	383	389	353	321	338	362	395	433
<b>Applications Filed</b>								
Patents	293,244	326,081	367,800	404,600	445,100	489,600	538,600	592,500
Growth Rate	12%	11.2%	12%	10%	10%	10%	10%	10%
Trademarks	375,428	296,388	300,000	330,000	363,000	399,000	439,000	483,000
Growth Rate	27%	-21%	0%	10%	10%	10%	10%	10%
<b>Total Patent Production</b>								
Patents Issued	165,504	170,643	170,800	182,471	217,225	257,870	288,282	313,679
Disposals	234,344	239,493	238,840	286,015	338,930	403,122	419,556	481,024
First Office Actions	237,422	241,770	280,896	312,482	397,870	414,482	476,113	490,202
First Office Action Pendency (months)	13.6	14.4	14.7	16.6	15.2	14.2	12.9	12.7
Total Pendency (months)	25.0	24.7	26.5	27.3	29.2	27.8	26.8	25.5
<b>Total Trademark Production</b>								
Trademarks Registered	127,794	124,502	123,000	138,600	156,100	175,600	197,600	217,400
Disposals	228,893	267,465	250,100	290,200	334,500	387,200	450,100	516,900
First Office Action Pendency (months)	5.7	2.7	3.0	2.5	2.0	2.0	2.0	2.0
Total Pendency (months)	17.3	17.8	15.5	13.5	13	13	12	12



# Funding Requirements and Fee Collections

	FY 2003	FY 2004	FY 2005	FY 2006
<b>TOTAL FEES</b>				
Total Fee Collections	1,526,908,066	1,679,528,377	1,832,645,496	1,980,148,566
Total Requirements	1,364,908,066	1,679,528,377	1,832,645,496	1,980,148,566
<b>PATENT FEES</b>				
Patent Fee Collections	1,328,850,655	1,481,424,641	1,620,749,391	1,755,341,600
Patent Requirements	1,190,623,583	1,481,424,641	1,620,749,391	1,755,341,600
<b>TRADEMARK FEES</b>				
Trademark Fee Collections	198,057,411	198,103,736	211,896,105	224,806,966
Trademark Requirements	174,284,483	198,103,736	211,896,105	224,806,966



# Funding Strategy

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- ◆ The Administration is proposing a one year patent surcharge for 2003 to begin Business Plan initiatives
  - ◆ Patents surcharge - 19.3% which applies to all statutory fees (e.g., filing, issue, maintenance, extension, appeal and revival fees)
  - ◆ Trademark surcharge – 10.3% which applies to the filing renewal and section 8 affidavit fees
- ◆ The surcharge will generate \$207 million of which \$45 million will be used to fund the Business Plan.
- ◆ \$162 million will be used for the President's Homeland and Economic Security priorities
- ◆ A patent realignment proposal for FY 2004 will be submitted separately



# Available/Unavailable Resources

*(Dollars in Millions)*

	<b>FY 2000 (Actual)</b>	<b>FY 2001 (Actual)</b>	<b>FY 2002 (Enacted)</b>	<b>FY 2002 (Current)</b>	<b>FY 2003 (Request)</b>
USPTO Fee Collections	\$1,006	\$1,085	\$1,346	\$1,198	\$1,527
Carryover From Prior Year	\$116	\$255	\$282	\$282	\$100
Subtotal: Available Resources	\$1,122	\$1,340	\$1,628	\$1,480	\$1,627
Carryover into Next Year: Old	-\$116	-\$255	-\$282	-\$282	-\$100
Carryover into Next Year: Add'l	-\$113	-\$46	-\$220	-\$72	\$0
Carryover into 2002: Add'l	-\$5	\$0	\$0	\$0	\$0
Other	-\$3	\$0	\$0	\$0	-\$162
Subtotal: Unavailable Resources	-\$237	-\$301	-\$502	-\$354	-\$262
<b>Total Available Resources</b>	<b>\$885</b>	<b>\$1,039</b>	<b>\$1,126</b>	<b>\$1,126</b>	<b>\$1,365</b>
Impact on U.S. Government Budget	-\$121	-\$46	-\$220	-\$72	-\$162



# Challenges

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- ◆ Economic Uncertainty
- ◆ Volatility in Demand for Products and Services
- ◆ Unanticipated Legislative Mandates Beyond Current Known Legislation (e.g., Madrid Protocol, Reexamination)
- ◆ Recruitment and Retention
- ◆ Adequate and Stable Funding to Implement the Business Plan
- ◆ Relocation to Carlyle Site



# President's Management Agenda: DOC and USPTO

Initiative	Department of Commerce		USPTO
	Current (2001)	Implementation Plan	Current/Action Plan
Human Capital	R	Y	Y
Competitive Sourcing	R	G	R
Improved Financial Management	R	G	G
E-Government	Y	Y	Y
Budget/Performance Integration	R	Y	G



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# Trademark Trial and Appeal Board

David Sams



# TTAB Goals for FY02

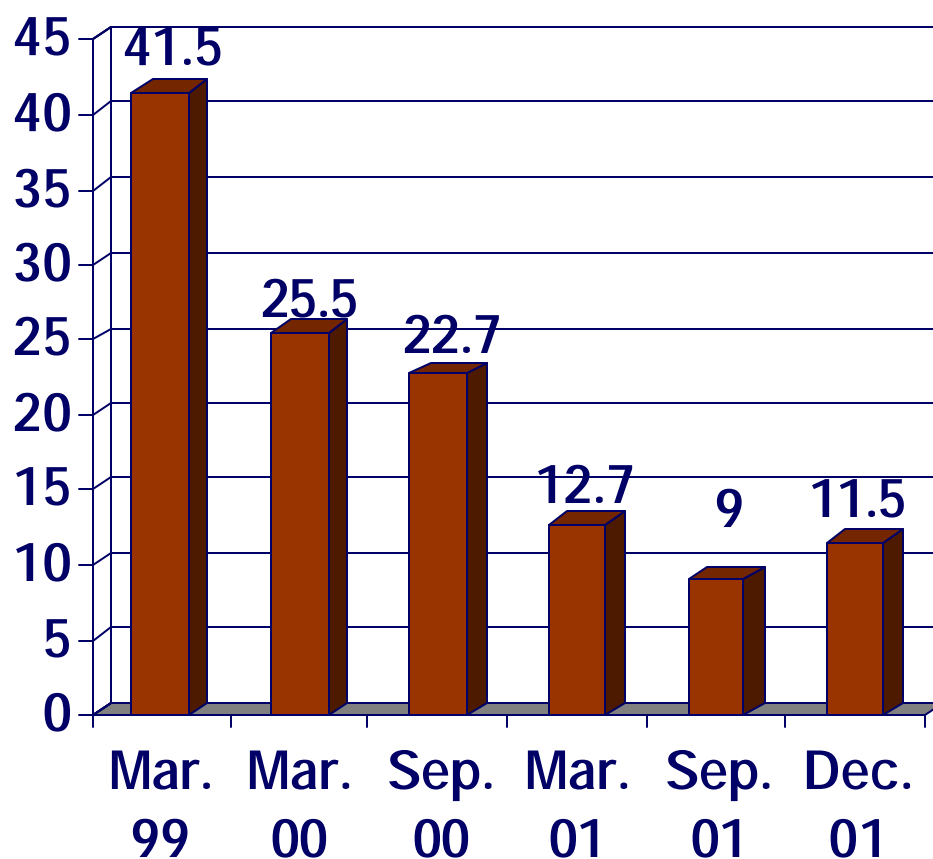
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- ◆ Final Decisions 12 weeks
- ◆ Summary Judgment Motions 12 weeks
- ◆ Other Contested Motions 12 weeks





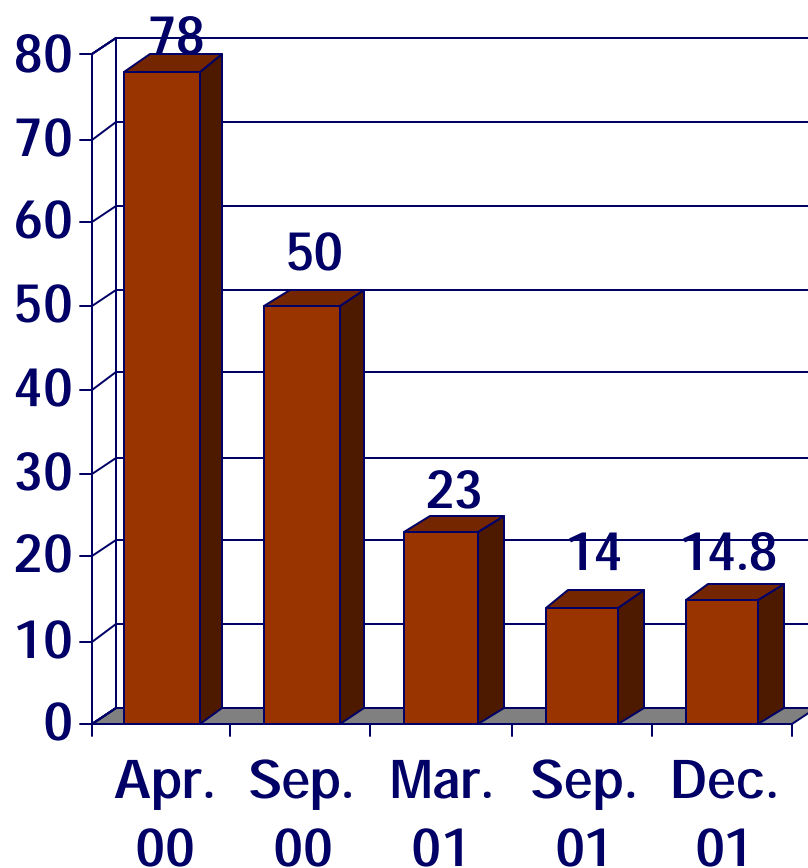
# TTAB Pendency Final Decisions



■ No. of weeks  
after case is  
ready for  
decision



# TTAB Pendency Summary Judgment Motions

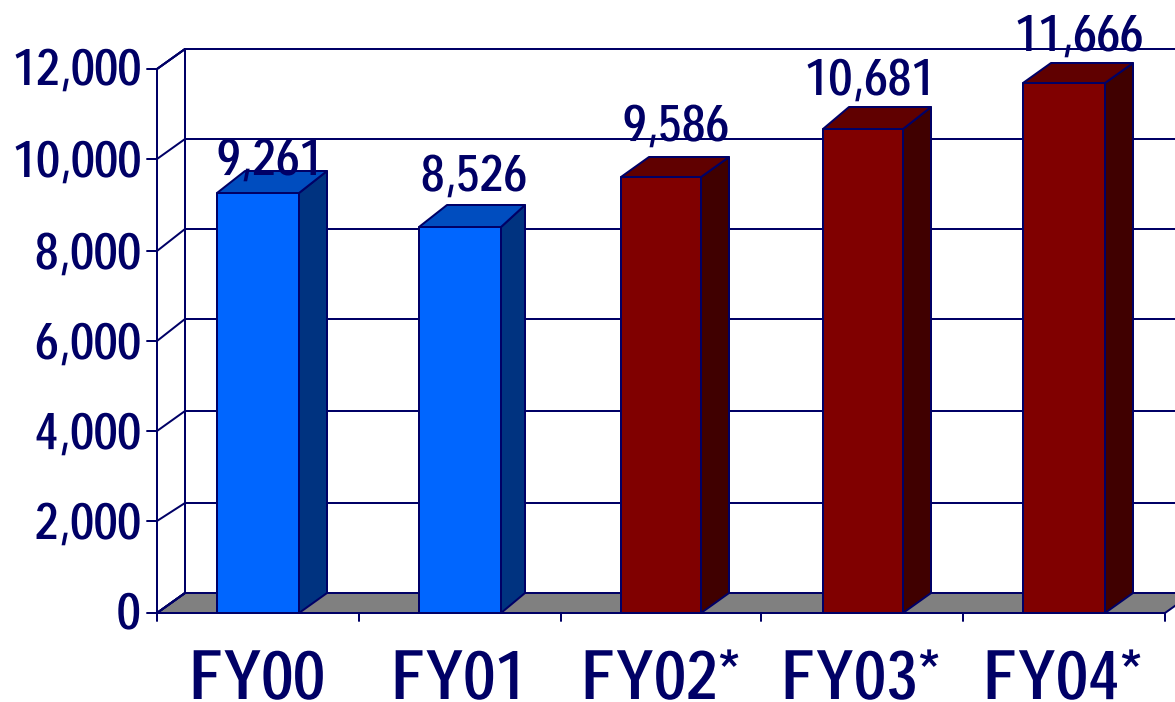


■ No. of weeks  
after case is  
ready for  
decision



# TTAB Filings

## Recent and Projected Filings

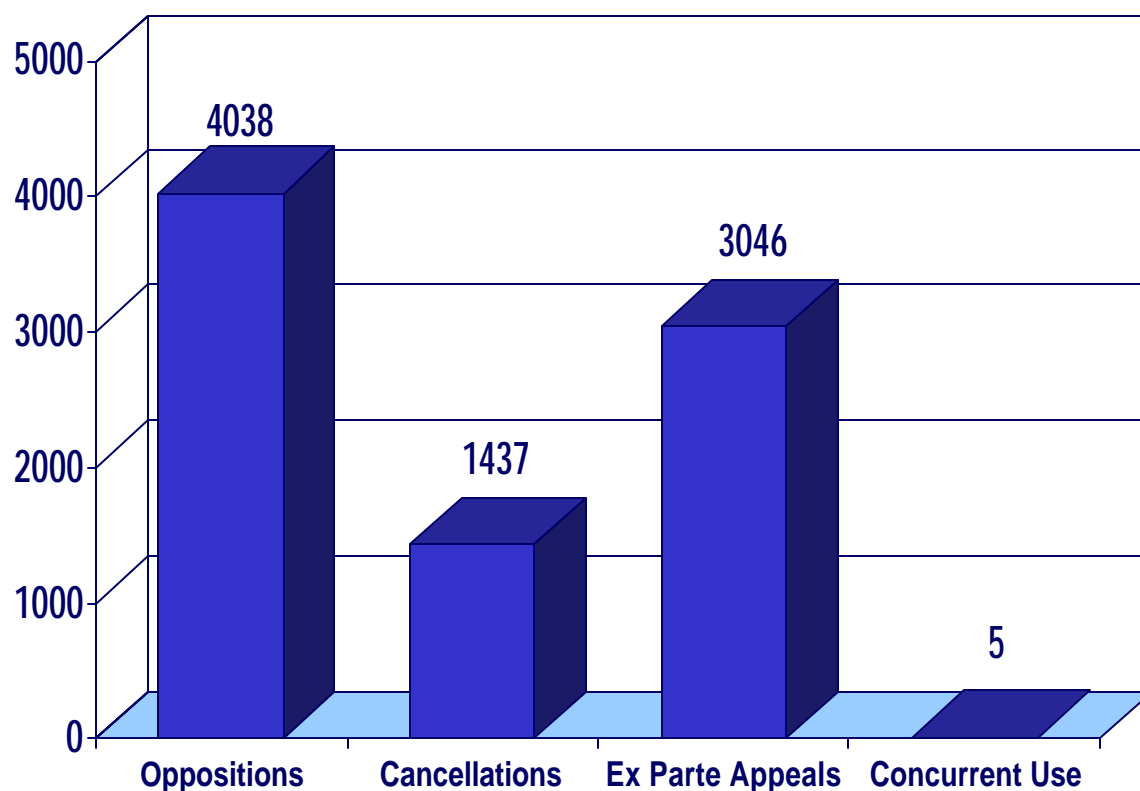


\* projected filings



# TTAB Filings FY 2001

## by Type of Proceeding

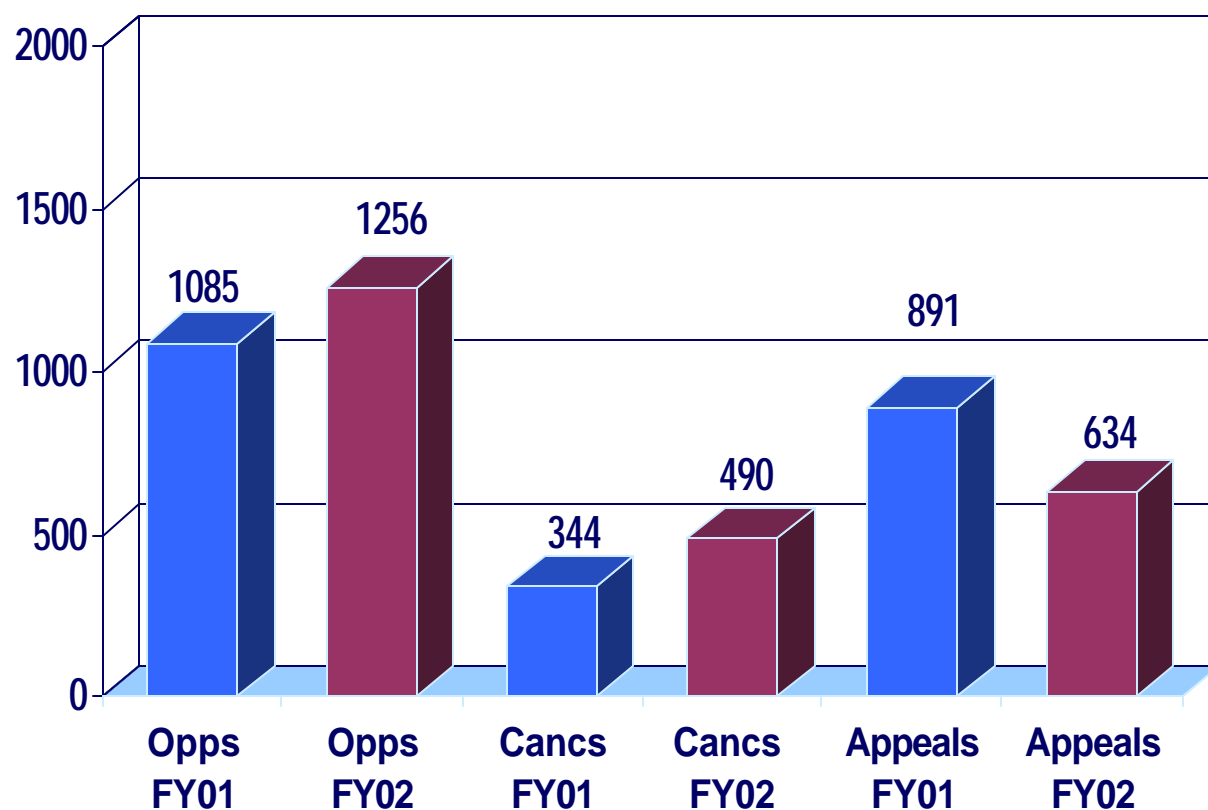


**Extensions of  
Time to  
Oppose**

**25,322**



# First Quarter Filings FY 01 and FY 02



**Extensions of  
Time to  
Oppose**

**FY 01 5990**  
**FY02 8526**



# E-Commerce at the TTAB

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- *Work@Home pilot*  
Currently 7 judges, 4 attorneys, 2 paralegals  
Expansion by FY03 to 27 participants
- *BISX on the Web*  
TTAB status available over the internet
- Electronic filing  
Planned for 2002



# TTABIS

- ▶ **Allows complete electronic processing of files**
- ▶ **Captures incoming papers at time of delivery- decreases lost and mismatched papers**
- ▶ **Minimizes file movement**
- ▶ **Will allow TTAB file access by public**

## **TTABIS Progress**

- Second pilot team added Dec. 2001
- 2 Judges, 8 attorneys and 50% of support staff using pilot system
- 50% of all incoming TTAB papers are scanned
- Improved management reporting system allows better workload monitoring



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# Trademark Operations

Bob Anderson





# Trademark Workloads

Filings, Actions and Disposals			
Measure	FY 01	FY 02 Plan	FY 02 First Qtr.
Applications for Registration	296,388	300,000	58,669
Increase/Decrease in Applications Filed	-21%	0%	-23%
Examiner First Actions	464,618	312,400	51,763
Trademarks Registered and Abandoned Office Disposals	267,475	219,000	46,877

Workloads include total classes.



# Timeliness Performance Scores

Minimize Processing Time			
Measure	FY 01 Actual	FY 02 Plan	FY 02 First Qtr.
Pendency to First Action	2.7	3.0	3.0
Pendency to Registration	17.8	15.5	16.9
Percentage of applications meeting 13 month pendency goal	40.5%	50%	43%
# days to mail filing receipts - Paper	16	14	21
# days to mail filing receipts - e-TEAS	1	1	1



# Trademark Staffing

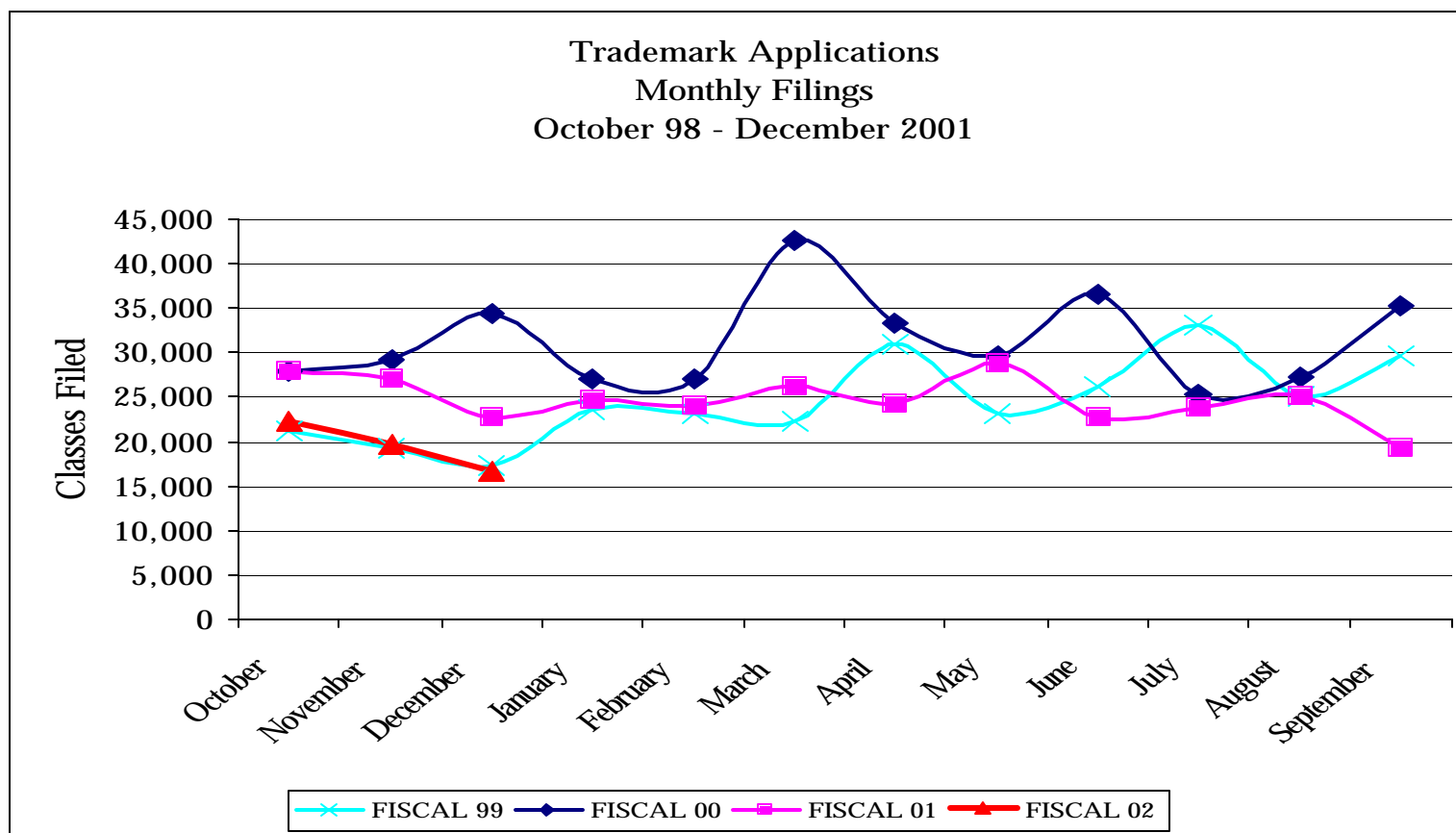
## FY 2001 – FY2002

	FY 01	FY 02	FY 02
Position Staffing:	Actual	Plan	First
	EOY		Qtr.
Trademark Organization - Gov	730	708	715
Examining Attorneys	389	353	385*
Technical Support Staff	230	242	220
Policy and Management	111	113	110
Contractor Positions	155	140	152

\* 90 examiners have been temporarily reassigned to work on non-examination projects.



# Application Filings





## **Key Issue** - Decrease in Trademark Application Filings

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Filings in 2001 were 21% lower than the previous year. Filings for 2002 were estimated to be at 2001 levels or 300,000.

■ If filings for 2002 continue to drop to between 210,000 – 255,000, what advice would you offer the Agency?

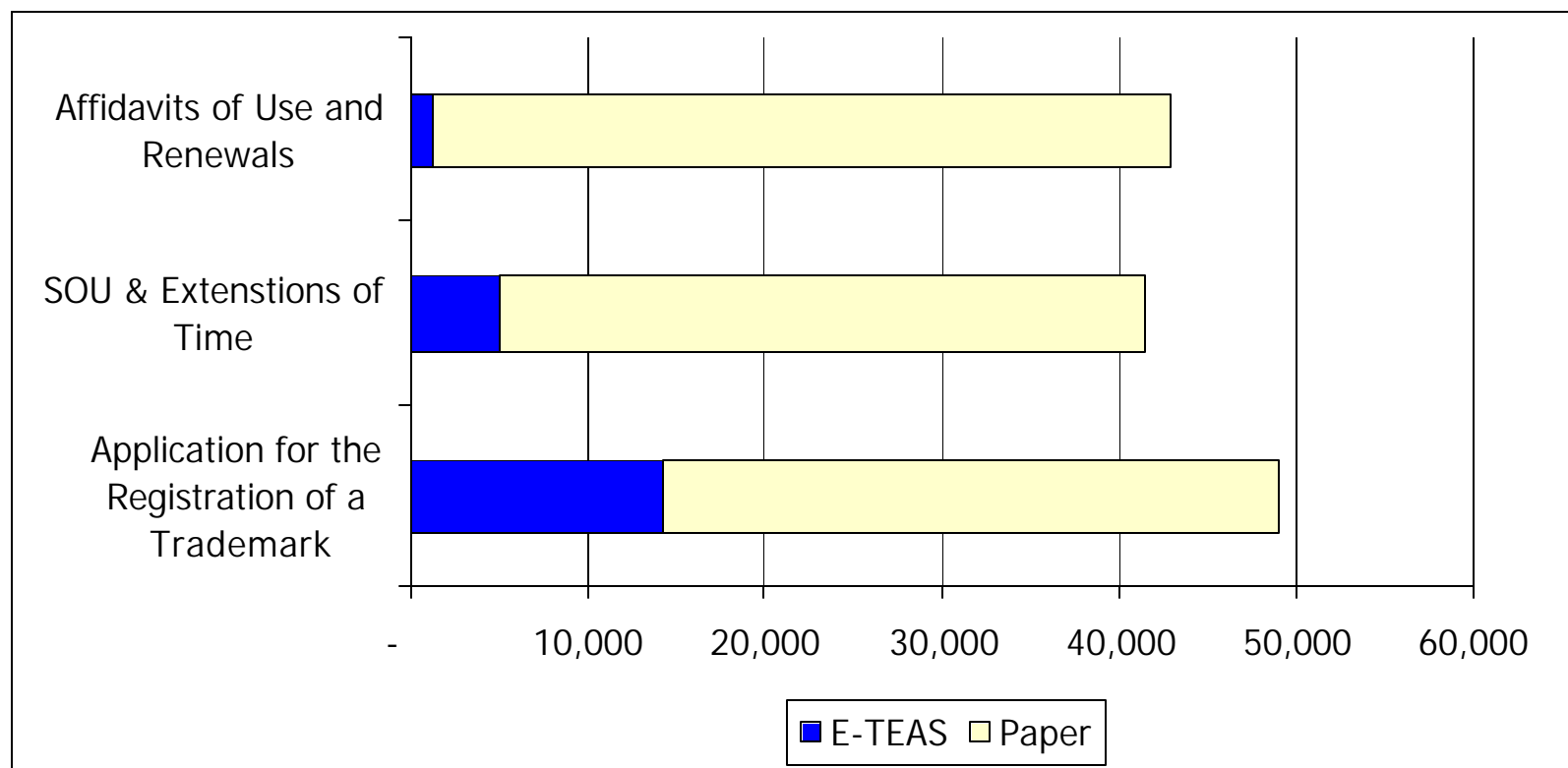


# E-Government Performance

e-Government			
Measure	FY 01 Actual	FY 02 Plan	FY02 First Qtr.
Applications filed Electronically for the Registration of a Trademark	24%	50%	29%
Total Employees Telecommuting	94		122
Examiners Telecommuting	90	110	100



# Trademark Electronic Filing



Electronic versus paper filings.



# E-Government Progress to Date

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- Electronic filing of applications for registration, subsequent filings for ITU and post registration documents.
- Additional payment option – electronic check.
- Electronic capture of new applications – paper and electronically filed.
- Electronic publication of the weekly TMOG.
- On-line access to the TMOG and registrations.
- On-line searching of trademark data and current status of pending applications.





# E-Government 2002 Commitments

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- Additional electronic filing forms.
- Upgrade forms to XML standards.
- Electronic capture of all incoming and outgoing correspondence.
- Electronic publication and distribution of the TMEP.
- Deliver electronic examination – first office action.



## **Key Issue** - Increase use of Electronic Filing of Trademark Applications and Responses

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The USPTO's 5 year Business Plan promotes the use of information technology to deliver services and information, consistent with the Administration's direction.

■ Given the stated opposition to "mandatory" electronic filing, what advice would you offer to the Agency to enable implementation of an electronic Trademark workplace in 2004?



## **Key Issue** - Implementing the Madrid Protocol

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The Agency believes it is critical to implement the Madrid Protocol using electronic technology to support all filings, communications and payments. We believe use of electronic technologies for handling Protocol transactions will ensure that the legal rights of U.S. users are afforded the best possible protection.

■ What are your views on this issue?



## **Key Issue** - Replacing Paper with Electronic Records

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Is there value to continued use of trademark fees to maintain paper search files in Northern VA given that electronic alternatives for searching and accessing USPTO trademark records are available on the Internet?



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# Legal and Policy

Lynne Beresford



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# Conclusion

Miles J. Alexander



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**Thank You**